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OCA 86-3091
15 September 1986

MEMORANDUM FOR: NIO/Narcotics
C/ [] PINS/DDO
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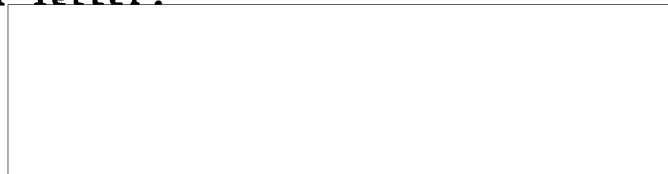
FROM: []
Legislation Division/OGC

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SUBJECT: Justice Viewsletter Opposing "Drug Czar"
Legislation

1. In an effort to "head off" the "drug czar" legislation before it becomes a part of any omnibus anti-drug legislation, the Department of Justice (in a viewsletter to Majority Leader Dole) has expressed the Administration's opposition to such legislation. A copy is attached for your information.

2. We understand that the Department of State is in the process of sending a similar letter.



Attachment
as stated

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Distribution:

Original - OCA/Legislation Subject File: NARCOTICS
1 - D/OCA w/attachment
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U.S. Department of Justice

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Office of Legislative and Intergovernmental Affairs

JRB:KB:CC:MB

S. 2716

Jim Brown (OMB)

Office of the Assistant Attorney General

Washington, D.C. 20530

10 SEP 1986

Honorable Robert Dole
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Dole:

This is to invite your attention to a very troublesome bill, S. 2716, which may be offered as an amendment to drug enforcement legislation. This proposal seeks to revive the "drug czar" issue which resulted in the President's disapproval of H.R. 3963 of the 97th Congress.

By way of background, legislation proposing creation of a "drug czar" was approved, without hearings or significant consideration, as a part of H.R. 3963 in late 1982. As the President believed that this legislation would undermine rather than enhance federal drug enforcement efforts, he disapproved the bill. A copy of his Statement of Disapproval is enclosed for ready reference.

During the 98th Congress, we worked at length with Senators Thurmond and Biden and agreed to a compromise, enacted as part of the Comprehensive Crime Control Act of 1984, which created the National Drug Enforcement Policy Board charged with the mission of developing a national drug enforcement strategy and of coordinating federal drug enforcement efforts. The Board, chaired by the Attorney General and comprised of several Cabinet-level officials including the Secretaries of the Treasury, State, Defense, and Transportation, was thus created on October 12, 1984 and held its first meeting in early 1985. Since that time, the Board has strived to carry out its mandate and has, we believe, made important progress toward the coordination and integration of federal drug enforcement activities.

Honorable Robert Dole
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The effect of approving S. 2716 would be to repudiate the National Drug Enforcement Policy Board within less than two years of its having been created by Congress. We would hope that any such effort in the Senate will be strenuously resisted. In the meantime, I wanted to be certain that you know of the depth of feeling which S. 2716 elicits among the federal law enforcement community. We vigorously oppose S. 2716 and sincerely believe that its approval would be counter-productive to our common goal of enhanced drug enforcement. In short, should S. 2716 be approved by the Congress, we would be constrained to urge the President to disapprove it.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Bolton". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John R. Bolton
Assistant Attorney General

Enclosure

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

January 14, 1983

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 3963, a bill concerning criminal law matters, because its disadvantages far outweigh any intended benefits.

In late September 1982, the Senate overwhelmingly approved a major crime bill by a vote of 95 to 1. That measure, the Violent Crime and Drug Enforcement Improvements Act of 1982 (S. 2572), would have resulted in urgently needed reforms in Federal bail laws to put an end to our "revolving door" system of justice, comprehensive reforms in Federal forfeiture laws to strip away the enormous assets and profits of narcotics traffickers and organized crime syndicates, and sweeping sentencing reforms to insure more uniform, determinate prison sentences for those convicted of Federal crimes. That major crime bill also contained other criminal law reforms. I strongly supported the principal elements of the Violent Crime and Drug Enforcement Improvements Act, especially the bail, sentencing, and forfeiture provisions.

The House of Representatives failed to approve this measure. It adopted a miscellaneous assortment of criminal justice proposals, H.R. 3963, which was approved in the waning hours of the 97th Congress. Although some elements of the House-initiated bill are good, other provisions are misguided or seriously flawed, possibly even unconstitutional. While its provisions on forfeiture of criminal assets and profits fall short of what the Administration proposed, they are clearly desirable. Had they been presented to me as a separate measure, I would have been pleased to give my approval. But H.R. 3963 does not deal with bail reform, nor does it address sentencing reform. Both are subjects long overdue for congressional action.

In addition to its failure to address some of the most serious problems facing Federal law enforcement, this "mini-crime bill" would in several respects hamper existing enforcement activity. I am particularly concerned about its adverse impact on our efforts to combat drug abuse.

The Act would create a drug director and a new bureaucracy within the Executive Branch with the power to coordinate and direct all domestic and international Federal drug efforts, including law enforcement operations. The creation of another layer of bureaucracy within the Executive Branch would produce friction, disrupt effective law enforcement, and could threaten the integrity of criminal investigations and prosecutions -- the very opposite of what its proponents apparently intend.

The seriousness of this threat is underscored by the overwhelming opposition to this provision by the Federal law enforcement community as well as by such groups as the International Association of Chiefs of Police and the National Association of Attorney's General. The so-called "drug czar"

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provision was enacted hastily without thoughtful debate and without benefit of any hearings. Although its aim -- with which I am in full agreement -- is to promote coordination, this can be and is being achieved through existing administrative structures.

Upon taking office, I directed the Attorney General and other senior officials of the Administration to improve the coordination and efficiency of Federal law enforcement efforts, with particular emphasis on drug-related crime. This has been accomplished through the establishment of the Cabinet Council on Legal Policy, which is chaired by the Attorney General and whose membership includes all Cabinet officers with responsibility for narcotics law enforcement. Working through the Cabinet Council, the White House Office on Drug Policy is an integral part of the process by which a comprehensive and coordinated narcotics enforcement policy is carried out.

I am pleased with the results of this process, which last Fall led to the creation of a nationwide task force effort to combat organized crime and narcotics trafficking. The war on crime and drugs does not need more bureaucracy in Washington. It does need more action in the field, and that is where my Administration will focus its efforts.

H.R. 3963 would also authorize the Federal prosecution of an armed robber or burglar who has twice been convicted in State court. This provision includes an unworkable and possibly unconstitutional restraint upon Federal prosecutions in this area, by allowing a State or local prosecutor to veto any Federal prosecution under his or her authority, even if the Attorney General had approved the prosecution. Such a restraint on Federal prosecutorial discretion and the delegation of Executive responsibility it entails raise grave constitutional and practical concerns. It would, for example, surely increase friction among Federal, State, and local prosecutors at a time when we are doing so much to decrease it.

Other provisions of H.R. 3963 are also defective. For example, the provision that expands Federal jurisdiction whenever food, drugs, or other products are tampered with, an expansion that I strongly support, was drafted to include tampering that occurs in an injured consumer's own home. It also fails to distinguish between tampering that results in injury and tampering that results in death. These are, however, essentially technical matters which might have been overcome but for the press of time in the closing days of Congress. I share the widespread public desire for new legislation on tampering and will work with the new Congress to produce an acceptable bill on that subject.

My Administration has proposed significant legislation to strengthen law enforcement and restore the balance between the forces of law and the forces of crime. Changes in sentencing, bail laws, the exclusionary rule, the insanity defense, and other substantive reforms in criminal law were not passed by the 97th Congress. Such reforms, if enacted, could make a real difference in the quality of justice in this country.

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It would have given me great pleasure to be able to approve substantive criminal justice legislation. I completely support some of the features of H.R. 3963, such as the Federal Intelligence Personnel Protection Act. Others I agree with in principle. But the disadvantages of this bill greatly outweigh its benefits. I look forward to approving legislation that does not contain the serious detriments of the present bill, and my Administration will work closely with Chairman Thurmond and Chairman Rodino to secure passage of substantive criminal justice reforms.

RONALD REAGAN

THE WHITE HOUSE,

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